

Attorney Docket No.: 43888-404

<u>PATENT</u>

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Customer No. 53080

Masaya UGAJI, et al.

Confirmation No.: 1240

Application No.: 10/553,208

Group Art Unit: 1795

Filed: October 13, 2005

**Examiner: GREGG CANTELMO** 

For: SOLID ELECTROLYTE AND ALL SOLID

STATE BATTERY USING THE SAME

## **ELECTION UNDER 35 U.S.C. § 121**

Mail Stop Amendment Hon. Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed

June 22, 2009, having a shortened statutory period for response set to expire

July 22, 2009, wherein the Examiner required restriction between the following Groups:

Group I: Claims 1-8, drawn to a solid electrolyte composition

under 35 U.S.C. 121: element M is a genus of elements

exclusive of silicon, and

Group II: Claims 9-12, drawn to a solid electrolyte composition

where the additive element M is a genus of elements

inclusive of silicon.

Applicants elect Group I, with claims 9-12 readable thereon and with the ultimate Species being the compound of claim 10 where the element M is Si, for initial prosecution on the merits. Applicants also reserve the right to file a Divisional

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Application for the non-elected claims which the Examiner has indicated are patentably distinct.

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition for extension of time.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date:  $\frac{7/22/09}{}$ 

By:

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